



U.S. Department of Justice

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December 8, 2014

BY ECF

Honorable James C. Francis
United States Magistrate Judge
United States District Court
500 Pearl Street, Room 1960
New York, NY 10007

Re: *U.S. ex rel. Kester v. Novartis Pharm. Corp.*, 11 Civ. 8196 (CM)(JCF)

Dear Judge Francis:

In accordance with Your Honor's Memorandum and Order dated November 24, 2014 (the "Nov. 24 Decision") [Dkt. 307], we write respectfully to notify the Court that the United States (the "Government") and the eleven States that intervened in this action (collectively, the "Litigating States") elect to dismiss their unjust enrichment claims.

Briefly, the Court held that, if the Government and the Litigating States elect to abandon their unjust enrichment claims, then the discovery sought by Novartis pursuant to its motion to compel would be irrelevant. *See* Nov. 24 Decision at 27. The Court further directed the government parties to make that election on or before December 8. *Id.* Pursuant to that direction, the Government and the Litigating States elect to dismiss their unjust enrichment claims.¹

¹ We note that, under Rule 72, Novartis has 14 days, i.e., until today, to object to the Nov. 24 Decision. We inquired with counsel whether Novartis intends to file an objection, and counsel advised us that Novartis has not made a decision. The election to dismiss the unjust enrichment claims is based on the assumption that Novartis will not object to the Court's decision. Put simply, the Government and the Litigating States reserve the right to pursue their unjust enrichment claims in the event that Novartis files an objection to overturn the Nov. 24 Decision.

We thank the Court for its consideration of this letter.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: /s/ Peter Aronoff_____

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